

Title 35. Fiduciaries and Trust Estates

→ Chapter 11. Fundraising for Catastrophic Illnesses (Refs & Annos)

§ 35-11-101. Trusts and trustees

(a) All funds raised to meet the medical or related expenses of a named individual suffering from a catastrophic illness shall be placed in trust with a bank or trust company organized and doing business under the laws of any state or territory of the United States, including the District of Columbia, and authorized to do business in this state. Such bank or trust company shall be named as trustee of the trust.

(b) As used in this chapter, "catastrophic illness" includes organ transplants.

§ 35-11-102. Trusts and trustees; contributions

(a) Before accepting any contributions for such fundraising activities, the organizer or promoter shall enter into a trust relationship with a bank or trust company; provided, that if in violation of this chapter contributions are accepted prior to entering into the trust relationship, then such contributions shall be placed in trust immediately upon establishment of the required trust relationship.

(b) The beneficiary of the trust shall be the named individual for whom the funds are being raised.

(c) Contingent beneficiaries shall be selected as provided in § 35-11-103.

§ 35-11-103. Transfers to contingent beneficiaries

(a) If the expenses of such illness of the beneficiary are less than the funds held in trust or the beneficiary dies before the funds held in trust are depleted, any remaining balance shall be transferred to the contingent beneficiary.

(b) When the trust is established, the named beneficiary shall select the manner in which a contingent beneficiary shall be named. If the named beneficiary is a minor or is incompetent, the parent or guardian shall select the manner in which a contingent beneficiary shall be named. The selection of the contingent beneficiary shall be made as follows:

(1) An institution involved in research to find a cure for a catastrophic illness shall be named;

(2) An individual, if known, who suffers from a catastrophic illness and is in need of financial help for valid reimbursable medical expenses, as defined in § 35-11-105, shall be named; or

(3) The trustee shall be authorized to select:

(A) An institution involved in research to find a cure for a catastrophic illness; or

(B) An individual who suffers from a catastrophic illness whether the name of such individual is known at the death of the named beneficiary or comes to the attention of the trustee within one (1) year after the death of the named beneficiary. The selection of such individual by the trustee is not limited to an individual for whom a trust has been established at such bank or trust company. If an individual beneficiary cannot be named within one (1) year, the option in subdivision (b)(3)(A) shall automatically occur.

(c) Modification of the selection of the contingent beneficiary may be made before the death of the named beneficiary or before the disbursement of funds to the selected contingent beneficiary.

(d) The transfer to a contingent beneficiary shall occur as quickly as is reasonably feasible.

§ 35-11-104. Payment by check; deposit of cash contributions

(a) All contributions for funds raised in accordance with this chapter made by check shall be made payable to the bank or trust company as trustee for the trust established by this chapter.

(b) All cash contributions shall be deposited as quickly as is reasonably feasible to the trust.

§ 35-11-105. Disbursement of funds

(a) Funds shall be disbursed by the bank or trust company upon the presentation of a statement for valid reimbursable medical expenses incurred by the named individual for the treatment of the catastrophic illness and for the payment of reasonable solicitation costs and expenses, when appropriate, incurred by the organizer, promoter or solicitor.

(b) "Valid reimbursable medical expenses" are those deductible medical expenses described in the Internal Revenue Code.

§ 35-11-106. Powers and authority of banks and trust companies; applicability

All powers and authority which are conferred on banks and trust companies in the administration and maintenance of trust funds in such institutions shall also apply to trusts created by this chapter.

§§ 35-11-107 to 35-11-110. Reserved

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§ 35-11-111. Unlawful fundraising

It is unlawful for any fundraising to occur for the purposes described in §§ 35-11-101 and 35-11-102 in violation of this chapter.

§ 35-11-112. Nonprofit corporations

(a)(1) The provisions of this chapter shall not apply to any nonprofit corporation which is:

- (A) Incorporated under the laws of Tennessee;
- (B) Exempt from federal income taxation under 26 U.S.C. § 501(c)(3); and
- (C) Requested by a patient or a patient's family to raise funds for an organ transplant for a specific individual.

(2) Any such funds remaining in a particular account shall revert to the general fund of such corporation to be used to assist other similarly situated persons.

(b)(1) The provisions of this chapter shall not apply to any nonprofit corporation which:

- (A) Is incorporated under the laws of Tennessee and is exempt from federal income taxation under 26 U.S.C. § 501(c)(3); and
- (B) Solicits and accepts contributions of funds for the purpose of providing minors suffering from a catastrophic

illness with nonmedical gifts or benefits to fulfill a desire or wish of such minor.

(2) A portion of such funds may be used to provide appropriate adult supervision if required by the gift.

(3) Any such funds raised for a particular minor and unexpended shall revert to the general fund of such corporation to be used to provide gifts or benefits for a similar minor.

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